



VIRGINIA COMMISSION ON YOUTH

Virginia Public Guardian and Conservator Programs

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Amy M. Atkinson
Executive Director, Virginia Commission on Youth

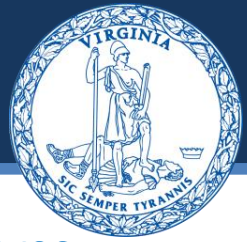
BACKGROUND



Virginia Pubic Guardian and Conservator Program

- Established by law in 1997
- § 51.5-149 provides a policy statement
 - *The General Assembly declares that it is the policy of the Commonwealth to ensure that persons who cannot adequately care for themselves because of incapacity are able to meet essential requirements for physical and emotional health and management of financial resources with the assistance of a guardian or conservator, as appropriate, in circumstances where (i) the incapacitated person's financial resources are insufficient to fully compensate a private guardian or conservator and pay court costs and fees associated with the appointment proceeding and (ii) there is no other proper and suitable person willing and able to serve in such capacity or there is no guardian or conservator appointed within one month of adjudication pursuant to § [64.2-2015](#). In order to ensure that the protection and assistance of a guardian or conservator are available to all incapacitated persons in the Commonwealth, there is established the statewide Virginia Public Guardian and Conservator Program within the Department to (a) facilitate the creation of local or regional programs to provide services as public guardians or conservators and (b) fund, coordinate, administer, and manage such programs.*

BACKGROUND



Virginia Public Guardian and Conservator Program

- § 51.5-150 states the powers and duties with respect to the Public Guardian and Conservator Program
 - Requires the Department of Aging and Rehabilitation Services to:
 - Make and enter into all contracts necessary;
 - Contract with local or regional public or private entities to provide services as guardians and conservators operating as local or regional Virginia public guardian and conservator programs; and
 - Adopt reasonable regulations as appropriate to implement, administer, and manage the state and local or regional programs authorized by the article.
- Virginia Department of Aging and Rehabilitation Services
 - Contracted with 15 local service providers
 - On call 24 hours a day/7 days a week
 - Provides ongoing technical assistance and annual training



Virginia Public Guardian and Conservator Program

- Public guardian is a person appointed by the court who is responsible for the personal affairs of an incapacitated person, including responsibility for making decisions regarding the person's support, care, health, safety, habilitation, education, therapeutic treatment, and, if not inconsistent with an order of involuntary admission, residence. Where the context plainly indicates, the term includes a "limited guardian" or a "temporary guardian."
- Conservator means a person appointed by the court who is responsible for managing the estate and financial affairs of an incapacitated person and, where the context plainly indicates, includes a "limited conservator" or a "temporary conservator."



Virginia Pubic Guardian and Conservator Program

- A Circuit Court must rule that the person is incapacitated and indigent and has no other person willing and able to serve as his/her guardian.
 - The Court appoints the public guardian or conservator who usually serves for the life of the incapacitated adult.
- The legal process can be costly.



Virginia Public Guardian and Conservator Program

- Responds to the documented need for guardians of last resort
- Provides the least restrictive mode of service
- Enables incapacitated persons to meet essential requirements for physical and emotional health and management of financial resources
- Partners with the Virginia Department of Behavioral Health and Developmental Services
 - This partnership increased services available to people served by local Community Services Boards and provides coverage across the Commonwealth.



Virginia Public Guardian and Conservator Program

- Guardians and Conservators must
 - Take sufficient time to develop a relationship with the client and those who support him or her
 - Act as a substitute decision-maker
 - Use Person-Centered Practices
 - Listening
 - Community
 - Self direction
 - Talents and contributions
 - Responsibility

BACKGROUND



Virginia Public Guardian and Conservator Advisory Board

- Serves as technical resource and advisor
- Provides assistance in developing regulations
- Assists local and regional programs in identifying clear and consistent processes to employ when clients are terminally ill and there is no clear documentation as to an individual's end-of-life decisions
- Identifies conflicting language in existing law as compared to the Virginia Health Care Decision Act
- Participates in annual training

BACKGROUND



Virginia Public Guardian and Conservator Advisory Board

- Advocates for the program and funding
- Conducts education and outreach
 - Presented to the Joint Commission on Health Care on the continuing need and successes of the program
 - Prepared outline and offered to conduct trainings for Circuit Court Judges
- Encouraging and supporting individual programs across the Commonwealth

DEMOGRAPHICS



Virginia Public Guardian and Conservator Program

- Demographics (3rd Quarter 2011)

Age Group	Age Range	# of Clients	Percentage
Young Adults	18 to 29	55	9%
Middle Aged	30 to 59	328	55%
Older Adults	60+	218	36%
Total		601	

Youngest client served – 20 years old

Oldest client served – 102 years old



Virginia Public Guardian and Conservator Programs

- Average Cost Per Client (As of 7/1/11)

Funding Stream	Amount	# of Clients	Average Cost
General Fund	\$ 940,032	307	\$3,062
MH/MR/Funds	\$ 125,492	40	\$3,137
DBHDS Funds	\$1,083,950	254	\$4,268
Total	\$2,149,474	601	\$3,577



Virginia Public Guardian and Conservator Programs

- The 2006-2008 Biennial Budget increased funding through the Department of Behavioral Health and Developmental Services to provide guardianship services to individuals currently residing in, or at risk of placement in, state Training Centers.
 - Allowed for the transition of 44 adults to the community
 - Saved the Commonwealth \$2.5 million/year

NEED FOR PROGRAM



Olmstead Decision

- On June 22, 1999, the U.S. Supreme Court held in *Olmstead v. L.C.* that unjustified segregation of persons with disabilities constitutes discrimination in violation of Title II of the Americans with Disabilities Act.
- The Court held that public entities must provide community-based services to persons with disabilities when:
 - such services are appropriate;
 - the affected persons do not oppose community-based treatment; and
 - community-based services can be reasonably accommodated.

NEED FOR PROGRAM



Olmstead's Decision - Impact on Virginia

- In August 2008, the U.S. Department of Justice (DOJ) initiated an investigation of Central Virginia Training Center pursuant to the Civil Right Institutionalized Person Act (CRIPA).
- In 2010, DOJ expanded the investigation to include Virginia's five Training Centers to assess compliance with American's with Disabilities Act (ADA) and the U.S. Supreme Court *Olmstead* ruling.

NEED FOR PROGRAM



Olmstead's Decision - Impact on Virginia

- In February 2011, DOJ submitted a letter stating that the Commonwealth fails to provide services to individuals with intellectual and developmental disabilities in the most integrated setting appropriate to their needs.
- In March 2011, Virginia entered into negotiations with DOJ in an effort to reach a settlement.
- On January 26, 2012, Virginia and DOJ reached a Settlement Agreement.
- On August 23, 2012, the Settlement Agreement was approved and entered by the Court.

NEED FOR PROGRAM



Highlights of Settlement Agreement

The Settlement Agreement shifted Virginia's service system for individuals with intellectual and developmental disabilities from an institutional model to a community-based model.

- Expanding Community-Based Services
- Supporting Quality Community-Based Services
- Transitioning from Training Centers
 - The Virginia Public Guardian and Conservator Program continues to provide a cost effective method to transition vulnerable adults from the Training Centers into the community.
 - Saves the Commonwealth approximately \$58,800/individual moved into the community from a Training Center.*

NEED FOR PROGRAM



The 2012 Biennial Report to the Governor and General Assembly indicated:

- 242 documented individuals on program waiting lists
 - Low estimate of need as not all requests received
 - Projected unmet need is substantially higher
 - Estimated that funding to serve an additional 537 individuals is needed, including:
 - 242 on the waiting list
 - Individuals currently living in Training Centers who may require a guardian (15)
 - Unserved and underserved areas of the Commonwealth (280)
- Department of Aging and Rehabilitation Services 2013 estimates include:
 - 580 documented demand for individuals
 - A budget increase request of \$3,429,687
 - \$409,000 to stabilize existing programs
 - \$3,020,687 to meet unmet needs and to provide a uniform system of guardianship

NEED FOR PROGRAM



Unserved area include:

- Counties of Brunswick, Dickenson, Dinwiddie, Charles City, Greenville, Halifax, Henry, Lee, New Kent, Mecklenburg, Patrick, Pittsylvania, Prince George, Russell, Surry and Sussex
- Cities of Emporia, Danville and Martinsville

RECOMMENDATION



- Support the Virginia's Public Guardian and Conservator Program, specifically the strategic investments recommended by the Department for Aging and Rehabilitative Services to the Secretary of Health and Human Resources in the 2014-2016 Biennial Budget.